

# SENATE MOTION

MR. PRESIDENT:

**I move** that Engrossed House Bill 1001(ss) be amended to read as follows:

1       Page 162, between lines 30 and 31, begin a new paragraph  
2       and insert:

3       "SECTION 147. IC 22-4-2-12 IS AMENDED TO READ AS  
4       FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. **(a) Except**  
5       **as provided in subsections (b) and (c),** "base period" means  
6       the first four (4) of the last five (5) completed calendar quarters  
7       immediately preceding the first day of an individual's benefit  
8       period. ~~Provided,~~ However, ~~That~~ for a claim computed in  
9       accordance with IC ~~1971~~, 22-4-22, the base period shall be the  
10      base period as outlined in the paying state's law.

11      **(b) Effective July 1, 2002, "base period" also includes, in**  
12      **the case of an individual who does not have sufficient wages**  
13      **in the base period as set forth in subsection (a), the last four**  
14      **(4) completed calendar quarters immediately preceding the**  
15      **first day of the benefit year of the individual if the period**  
16      **qualifies the individual for benefits under this chapter.**  
17      **Wages that fall within the base period of claims established**  
18      **under this subsection are not available for reuse in**  
19      **qualifying for a subsequent benefit year.**

20      **(c) In the case of a combined wage claim under an**  
21      **arrangement approved by the United States Secretary of**  
22      **Labor, the base period is the period applicable under the**  
23      **unemployment compensation law of the paying state.**

24      **(d) The department shall adopt rules under IC 4-22-2 to**  
25      **obtain wage information if wage information for the most**  
26      **recent quarter of the base period as set forth under**  
27      **subsection (b) is not available to the department from**  
28      **regular quarterly reports of wage information that is**

1 **systemically accessible.**

2 SECTION 148. IC 22-4-2-12.5 IS AMENDED TO READ  
 3 AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12.5. (a)  
 4 Notwithstanding section 12 of this chapter, for an individual  
 5 who during the "base period" as defined in that section has  
 6 received worker's compensation benefits under IC 22-3-3 for a  
 7 period of fifty-two (52) weeks or less, and as a result has not  
 8 earned sufficient wage credits to meet the requirements of  
 9 IC 22-4-14-5, "base period" means the first four (4) of the last  
 10 five (5) completed calendar quarters immediately preceding the  
 11 last day that the individual was able to work, as a result of the  
 12 individual's injury.

13 **(b) The provisions of section 12(b), 12(c), and 12(d) of**  
 14 **this chapter apply to this section beginning July 1, 2002.**

15 SECTION 149. IC 22-4-10.5-7, AS ADDED BY  
 16 P.L.290-2001, SECTION 1, IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) **After**  
 18 **making the deposit required by subsection (b),** the  
 19 department shall deposit skills 2016 training assessments paid  
 20 to the department under this chapter in the skills 2016 training  
 21 fund established by IC 22-4-24.5-1.

22 **(b) After June 30, 2002, unless the board approves a**  
 23 **lesser amount, the department annually shall deposit the**  
 24 **first four hundred fifty thousand dollars (\$450,000) in skills**  
 25 **2016 training assessments paid to the department under this**  
 26 **chapter in the special employment and training services**  
 27 **fund established by IC 22-4-25-1 for the training and**  
 28 **counseling assistance described in IC 22-4-25-1(f).**

29 SECTION 150. IC 22-4-15-1, AS AMENDED BY  
 30 P.L.290-2001, SECTION 7, IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) With  
 32 respect to benefit periods established on and after July 6, 1980,  
 33 an individual who has voluntarily left the individual's most  
 34 recent employment without good cause in connection with the  
 35 work or who was discharged from the individual's most recent  
 36 employment for just cause is ineligible for waiting period or  
 37 benefit rights for the week in which the disqualifying separation  
 38 occurred and until the individual has earned remuneration in  
 39 employment equal to or exceeding the weekly benefit amount  
 40 of the individual's claim in each of eight (8) weeks. If the  
 41 qualification amount has not been earned at the expiration of an  
 42 individual's benefit period, the unearned amount shall be carried

forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of ~~his~~ **the individual's** current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private,

1 providing for compulsory retirement and who is otherwise  
2 eligible shall not be deemed to have left the individual's  
3 work voluntarily without good cause in connection with  
4 the work. However, if such individual subsequently  
5 becomes reemployed and thereafter voluntarily leaves  
6 work without good cause in connection with the work, the  
7 individual shall be deemed ineligible as outlined in this  
8 section.

9 (5) An otherwise eligible individual shall not be denied  
10 benefits for any week because the individual is in training  
11 approved under Section 236(a)(1) of the Trade Act of  
12 1974, nor shall the individual be denied benefits by reason  
13 of leaving work to enter such training, provided the work  
14 left is not suitable employment, or because of the  
15 application to any week in training of provisions in this  
16 law (or any applicable federal unemployment  
17 compensation law), relating to availability for work, active  
18 search for work, or refusal to accept work. For purposes of  
19 this subdivision, the term "suitable employment" means  
20 with respect to an individual, work of a substantially equal  
21 or higher skill level than the individual's past adversely  
22 affected employment (as defined for purposes of the Trade  
23 Act of 1974), and wages for such work at not less than  
24 eighty percent (80%) of the individual's average weekly  
25 wage as determined for the purposes of the Trade Act of  
26 1974.

27 (6) An individual is not subject to disqualification because  
28 of separation from the individual's employment if:

29 (A) the employment was outside the individual's labor  
30 market;

31 (B) the individual left to accept previously secured  
32 full-time work with an employer in the individual's  
33 labor market; and

34 (C) the individual actually became employed with the  
35 employer in the individual's labor market.

36 (7) An individual who, but for the voluntary separation to  
37 move to another labor market to join a spouse who had  
38 moved to that labor market, shall not be disqualified for  
39 that voluntary separation, if the individual is otherwise  
40 eligible for benefits. Benefits paid to the spouse whose  
41 eligibility is established under this subdivision shall not be  
42 charged against the employer from whom the spouse

voluntarily separated.

**(8) An individual who is an affected employee (as defined in IC 22-4-43-1(1)) and is subject to the work sharing unemployment insurance program under IC 22-4-43 is not disqualified from participating in the work sharing unemployment insurance program for being an affected employee.**

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer;

(3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers; or

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

SECTION 151. IC 22-4-18.3-6, AS AMENDED BY P.L.1-2002, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The board shall make recommendations to the unemployment insurance board for disbursements of funds from:

(1) the skills 2016 training fund established by IC 22-4-24.5-1; and

**(2) the employment and training services administration fund established by IC 22-4-24-1, to the**

1           **extent the disbursements:**

2           **(A) are from amounts credited to the account of this**  
 3           **state pursuant to 42 U.S.C. 1103, as amended, by**  
 4           **section 209 of the Temporary Extended**  
 5           **Unemployment Compensation Act of 2002, which is**  
 6           **Title II of the federal Job Creation and Worker**  
 7           **Assistance Act of 2002, P.L.107-147; and**

8           **(B) are for the upgrade of inhouse computer systems**  
 9           **used for the administration of the state's**  
 10           **unemployment compensation system and public**  
 11           **employment offices.**

12       The unemployment insurance board may either approve or  
 13       reject, but not modify, such a recommendation.

14       (b) If the unemployment insurance board approves a  
 15       disbursement recommended by the board, the department of  
 16       workforce development shall so disburse the funds.

17       (c) If the unemployment insurance board rejects a  
 18       recommendation of the board, the unemployment insurance  
 19       board may return the recommendation to the board and may  
 20       include a written statement explaining the reasons for the  
 21       rejection.

22       SECTION 152. IC 22-4-24.5-1, AS AMENDED BY  
 23       P.L.1-2002, SECTION 92, IS AMENDED TO READ AS  
 24       FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The skills  
 25       2016 training fund is established to do the following:

26           (1) Administer the costs of the skills 2016 training  
 27           program established by IC 22-4-10.5.

28           (2) Undertake any program or activity that furthers the  
 29           purposes of IC 22-4-10.5.

30           (3) Refund skills 2016 training assessments erroneously  
 31           collected and deposited in the fund.

32       (b) Subject to subsection (j), fifty-five percent (55%) of the  
 33       money in the fund shall be allocated to the state educational  
 34       institution established under IC 20-12-61. The money so  
 35       allocated to that state educational institution shall be used as  
 36       follows:

37           (1) An amount to be determined annually shall be allocated  
 38           to the state educational institution established under  
 39           IC 20-12-61 for its costs in administering the training  
 40           programs described in subsection (b). However, the  
 41           amount so allocated may not exceed fifteen percent (15%)  
 42           of the total amount of money allocated under this

1 subsection.

2 (2) After the allocation made under subdivision (1), forty  
3 percent (40%) shall be used to provide training to  
4 participants in joint labor and management building trades  
5 apprenticeship programs approved by the United States  
6 Department of Labor's Bureau of Apprenticeship Training.

7 (3) After the allocation made under subdivision (1), forty  
8 percent (40%) shall be used to provide training to  
9 participants in joint labor and management industrial  
10 apprenticeship programs approved by the United States  
11 Department of Labor's Bureau of Apprenticeship Training.

12 (4) After the allocation made under subdivision (1), twenty  
13 percent (20%) shall be used to provide training to  
14 industrial employees not covered by subdivision (2).

15 (c) Subject to subsection (j), the remainder of the money in  
16 the fund shall be allocated as follows:

17 (1) An amount not to exceed one million dollars  
18 (\$1,000,000) shall be allocated to the department of  
19 workforce development annually for technology needs of  
20 the department.

21 (2) An amount not to exceed four hundred fifty thousand  
22 dollars (\$450,000) shall be allocated annually for training  
23 and counseling assistance under IC 22-4-14-2 provided by  
24 state educational institutions (as defined in IC 20-12-0.5-1)  
25 or counseling provided by the department of workforce  
26 development for individuals who:

27 (A) have been unemployed for at least four (4) weeks;

28 (B) are not otherwise eligible for training and  
29 counseling assistance under any other program; and

30 (C) are not participating in programs that duplicate  
31 those programs described in IC 22-4-25-1(e).

32 Training or counseling provided under IC 22-4-14-2 does  
33 not excuse the claimant from complying with the  
34 requirements of IC 22-4-14-3. Eligibility for training and  
35 counseling assistance under this subdivision shall not be  
36 determined until after the fourth week of eligibility for  
37 unemployment training compensation benefits.

38 (3) (2) An amount to be determined annually shall be set  
39 aside for the payment of refunds from the fund.

40 (4) (3) The remainder of the money in the fund after the  
41 allocations provided for in subsection (b) and subdivisions  
42 (1) through (3) (2) shall be allocated to other incumbent

1 worker training programs.

2 (d) The fund shall be administered by the board. However,  
3 all disbursements from the fund must be recommended by the  
4 incumbent workers training board and approved by the board as  
5 required by IC 22-4-18.3-6.

6 (e) The treasurer of state shall invest the money in the fund  
7 not currently needed to meet the obligations of the fund in the  
8 same manner as other public money may be invested. Interest  
9 that accrues from these investments shall be deposited in the  
10 fund.

11 (f) Money in the fund at the end of a state fiscal year does not  
12 revert to the state general fund.

13 (g) The fund consists of the following:

- 14 (1) Assessments deposited in the fund.
- 15 (2) Earnings acquired through the use of money belonging  
16 to the fund.
- 17 (3) Money received from the fund from any other source.
- 18 (4) Interest earned from money in the fund.
- 19 (5) Interest and penalties collected.

20 (h) All money deposited or paid into the fund is appropriated  
21 annually for disbursements authorized by this section.

22 (i) Any balance in the fund does not lapse but is available  
23 continuously to the department for expenditures consistent with  
24 this chapter.

25 (j) If the fund ratio (as described in IC 22-4-11-3) is less than  
26 or equal to ~~1.5~~ **1.0** or if the board determines that the solvency  
27 of the unemployment insurance benefit fund established by  
28 IC 22-4-26-1 is threatened, the funds assessed for or deposited  
29 in the skills 2016 training fund shall be directed or transferred  
30 to the unemployment insurance benefit fund.

31 SECTION 153. IC 22-4-25-1, AS AMENDED BY  
32 P.L.290-2001, SECTION 20, IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) There is  
34 created in the state treasury a special fund to be known as the  
35 special employment and training services fund. All interest on  
36 delinquent contributions and penalties collected under this  
37 article, together with any voluntary contributions tendered as a  
38 contribution to this fund **and amounts deposited as required**  
39 **by IC 22-4-10.5-7(b)**, shall be paid into this fund. The money  
40 shall not be expended or available for expenditure in any  
41 manner which would permit their substitution for (or a  
42 corresponding reduction in) federal funds which would in the



1 absence of said money be available to finance expenditures for  
2 the administration of this article, but nothing in this section  
3 shall prevent said money from being used as a revolving fund  
4 to cover expenditures necessary and proper under the law for  
5 which federal funds have been duly requested but not yet  
6 received, subject to the charging of such expenditures against  
7 such funds when received. The money in this fund shall be used  
8 by the board for the payment of refunds of interest on  
9 delinquent contributions and penalties so collected, for the  
10 payment of costs of administration which are found not to have  
11 been properly and validly chargeable against federal  
12 grants or other funds received for or in the employment and  
13 training services administration fund, on and after July 1, 1945.  
14 Such money shall be available either to satisfy the obligations  
15 incurred by the board directly, or by transfer by the board of the  
16 required amount from the special employment and training  
17 services fund to the employment and training services  
18 administration fund. No expenditure of this fund shall be made  
19 unless and until the board finds that no other funds are available  
20 or can properly be used to finance such expenditures, except  
21 that expenditures from said fund may be made for the purpose  
22 of acquiring lands and buildings or for the erection of buildings  
23 on lands so acquired which are deemed necessary by the board  
24 for the proper administration of this article. The board shall  
25 order the transfer of such funds or the payment of any such  
26 obligation or expenditure and such funds shall be paid by the  
27 treasurer of state on requisition drawn by the board directing the  
28 auditor of state to issue the auditor's warrant therefor. Any such  
29 warrant shall be drawn by the state auditor based upon vouchers  
30 certified by the board or the commissioner. The money in this  
31 fund is hereby specifically made available to replace within a  
32 reasonable time any money received by this state pursuant to 42  
33 U.S.C. 502, as amended, which, because of any action or  
34 contingency, has been lost or has been expended for  
35 purposes other than or in amounts in excess of those approved  
36 by the bureau of employment security. The money in this fund  
37 shall be continuously available to the board for expenditures in  
38 accordance with the provisions of this section and shall not  
39 lapse at any time or be transferred to any other fund, except as  
40 provided in this article. Nothing in this section shall be  
41 construed to limit, alter, or amend the liability of the state  
42 assumed and created by IC 22-4-28, or to change the procedure

1 prescribed in IC 22-4-28 for the satisfaction of such liability,  
2 except to the extent that such liability may be satisfied by and  
3 out of the funds of such special employment and training  
4 services fund created by this section.

5 (b) The board, subject to the approval of the budget agency  
6 and governor, is authorized and empowered to use all or any  
7 part of the funds in the special employment and training  
8 services fund for the purpose of acquiring suitable office space  
9 for the department by way of purchase, lease, contract, or in any  
10 part thereof to purchase land and erect thereon such buildings  
11 as the board determines necessary or to assist in financing the  
12 construction of any building erected by the state or any of its  
13 agencies wherein available space will be provided for the  
14 department under lease or contract between the department and  
15 the state or such other agency. The commissioner may transfer  
16 from the employment and training services administration fund  
17 to the special employment and training services fund amounts  
18 not exceeding funds specifically available to the commissioner  
19 for that purpose equivalent to the fair, reasonable rental value  
20 of any land and buildings acquired for its use until such time as  
21 the full amount of the purchase price of such land and buildings  
22 and such cost of repair and maintenance thereof as was  
23 expended from the special  
24 employment and training services fund has been returned to  
25 such fund.

26 (c) The board may also transfer from the employment and  
27 training services administration fund to the special employment  
28 and training services fund amounts not exceeding funds  
29 specifically available to the commissioner for that purpose  
30 equivalent to the fair, reasonable rental value of space used by  
31 the department in any building erected by the state or any of its  
32 agencies until such time as the department's proportionate  
33 amount of the purchase price of such building and the  
34 department's proportionate amount of such cost of repair and  
35 maintenance thereof as was expended from the special  
36 employment and training services fund has been returned to  
37 such fund.

38 (d) Whenever the balance in the special employment and  
39 training services fund is deemed excessive by the board, the  
40 board shall order payment into the unemployment insurance  
41 benefit fund of the amount of the special employment and  
42 training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than five million dollars (\$5,000,000) during a program year for training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training. Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs.

**(f) The commissioner shall allocate an amount not to exceed four hundred fifty thousand dollars (\$450,000) annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:**

- (1) have been unemployed for at least four (4) weeks;**
- (2) are not otherwise eligible for training and counseling assistance under any other program; and**
- (3) are not participating in programs that duplicate those programs described in subsection (e).**

**Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subdivision shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits. The training and counseling assistance programs funded by this subsection must be approved by the United States Department of Labor's Bureau of Apprenticeship Training.**

SECTION 154. IC 22-4-26-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Money credited to the account of this state in the unemployment trust fund by the Secretary of the Treasury of the United States pursuant to 42 U.S.C. 1103, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this article and public employment offices pursuant to a specific appropriation by the general assembly, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation statute which:

- (1) specifies the purposes for which such money is

appropriated and the amounts appropriated therefor;

(2) **except as provided in subsection (e)**, limits the period within which such money may be obligated to a period ending not more than two (2) years after the date of the enactment of the appropriation statute; and

(3) limits the total amount which may be obligated during a twelve (12) month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which:

(A) the aggregate of the amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, during such twelve (12) month period and the twenty-four (24) preceding twelve (12) month periods; exceeds

(B) the aggregate of the amounts obligated by this state pursuant to this section and amounts paid out for benefits and charged against the amounts credited to the account of this state during such twenty-five (25) twelve (12) month periods.

(b) For the purposes of this section, amounts obligated by this state during any such twelve (12) month period shall be charged against equivalent amounts which were first credited and which have not previously been so charged, except that no amount obligated for administration of this article and public employment offices during any such twelve (12) month period may be charged against any amount credited during such twelve (12) month period earlier than the fourteenth preceding such twelve (12) month period.

(c) Amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, may not be obligated except for the payment of cash benefits to individuals with respect to their unemployment and for the payment of expenses incurred for the administration of this article and public employment offices pursuant to this section.

(d) Money appropriated as provided in this section for the payment of expenses incurred for the administration of this article and public employment offices pursuant to this section shall be requisitioned as needed for payment of obligations incurred under such appropriation and upon requisition shall be deposited in the employment and training services administration fund but, until expended, shall remain a part of the unemployment insurance benefit fund. The commissioner

1 shall maintain a separate record of the deposit, obligation,  
 2 expenditure, and return of funds so deposited. If any money so  
 3 deposited is for any reason not to be expended for the purpose  
 4 for which it was appropriated, or if it remains unexpended at the  
 5 end of the period specified by the statute appropriating such  
 6 money, it shall be withdrawn and returned to the Secretary of  
 7 the Treasury of the United States for credit to this state's  
 8 account in the unemployment trust fund.

9 **(e) This subsection applies only to amounts credited to**  
 10 **the account of this state pursuant to 42 U.S.C. 1103, as**  
 11 **amended, by section 209 of the Temporary Extended**  
 12 **Unemployment Compensation Act of 2002, which is Title II**  
 13 **of the federal Job Creation and Worker Assistance Act of**  
 14 **2002, P.L.107-147. Amounts appropriated for the payment**  
 15 **of expenses incurred in the administration of this article**  
 16 **and public employment offices pursuant to this section are**  
 17 **not required to be obligated within the two (2) year period**  
 18 **described in subsection (a)(2). Disbursements of amounts**  
 19 **appropriated for the upgrade of the department of**  
 20 **workforce development's inhouse computer system used in**  
 21 **administering the state's unemployment compensation**  
 22 **system and public employment offices are subject to the**  
 23 **recommendation of the incumbent worker training board**  
 24 **and the approval of the unemployment insurance board as**  
 25 **required by IC 22-4-18.3-6.**

26 SECTION 155. IC 22-4-43 IS ADDED TO THE INDIANA  
 27 CODE AS A NEW CHAPTER TO READ AS FOLLOWS  
 28 [EFFECTIVE JULY 1, 2002]:

29 **Chapter 43. Work Sharing**

30 **Sec. 1. The following definitions apply throughout this**  
 31 **chapter:**

32 **(1) "Affected employee" means an individual who has**  
 33 **been continuously on the payroll of an affected unit for**  
 34 **at least three (3) months before the employing unit**  
 35 **submits a work sharing plan.**

36 **(2) "Affected unit" means a specific plant, department,**  
 37 **shift, or other definable unit of an employing unit:**

38 **(A) that has at least two (2) employees; and**

39 **(B) to which an approved work sharing plan applies.**

40 **(3) "Approved work sharing plan" means a plan that**  
 41 **satisfies the purpose set forth in section 2 of this**  
 42 **chapter and has the approval of the commissioner.**

1 (4) "Commissioner" refers to the commissioner of  
2 workforce development appointed under IC 22-4.1-3-1.

3 (5) "Employee association" means an association that  
4 is a party to a collective bargaining agreement under  
5 which it may negotiate a work sharing plan.

6 (6) "Normal weekly work hours" means the lesser of:

7 (A) the number of hours in a week that an employee  
8 customarily works for the regular employing unit;

9 or

10 (B) forty (40) hours.

11 (7) "Work sharing benefit" means benefits payable to  
12 an affected employee for work performed under an  
13 approved work sharing plan, including benefits  
14 payable to a federal civilian employee or former  
15 member of the armed forces under 5 U.S.C. 8500 et  
16 seq., but does not include benefits that are otherwise  
17 payable under this article.

18 (8) "Work sharing employer" means an employing unit  
19 or employer association for which a work sharing plan  
20 has been approved.

21 (9) "Work sharing plan" means a plan of an employing  
22 unit or employer association under which:

23 (A) normal weekly work hours of affected employees  
24 are reduced; and

25 (B) affected employees share the work that remains  
26 after the reduction.

27 **Sec. 2. The work sharing unemployment insurance**  
28 **program seeks to:**

29 (1) preserve the jobs of employees and the work force  
30 of an employer during lowered economic activity by  
31 reduction in work hours or workdays rather than by a  
32 layoff of some employees while other employees  
33 continue their normal weekly work hours or workdays;  
34 and

35 (2) ameliorate the adverse effect of reduction in  
36 business activity by providing benefits for the part of  
37 the normal weekly work hours or workdays in which  
38 an employee does not work.

39 **Sec. 3. An employing unit or employee association that**  
40 **wishes to participate in the work sharing unemployment**  
41 **insurance program shall submit to the commissioner a**  
42 **written work sharing plan that the employing unit or**

1 representative of the employee association has signed.

2       **Sec. 4. (a)** Within fifteen (15) days after receipt of a work  
3 sharing plan, the commissioner shall give written approval  
4 or disapproval of the plan to the employing unit or  
5 employee association.

6       **(b)** The decision of the commissioner to disapprove a  
7 work sharing plan is final and may not be appealed.

8       **(c)** An employing unit or employee association may  
9 submit a new work sharing plan not less than fifteen (15)  
10 days after disapproval of a work sharing plan.

11       **Sec. 5.** The commissioner shall approve a work sharing  
12 plan that meets the following requirements:

13       **(1)** The work sharing plan must apply to:

14               **(A)** at least ten percent (10%) of the employees in an  
15 affected unit; or

16               **(B)** at least twenty (20) employees in an affected unit  
17 in which the work sharing plan applies equally to all  
18 affected employees.

19       **(2)** The normal weekly work hours of affected  
20 employees in the affected unit shall be reduced by at  
21 least ten percent (10%) but the reduction may not  
22 exceed fifty percent (50%) unless the fifty percent  
23 (50%) limit is waived by the commissioner.

24       **Sec. 6.** A work sharing plan must:

25       **(1)** identify the affected unit;

26       **(2)** identify each employee in the affected unit by:

27               **(A)** name;

28               **(B)** Social Security number; and

29               **(C)** any other information that the commissioner  
30 requires;

31       **(3)** specify an expiration date that is not more than six  
32 (6) months after the effective date of the work sharing  
33 plan;

34       **(4)** specify the effect that the work sharing plan will  
35 have on the fringe benefits of each employee in the  
36 affected unit, including:

37               **(A)** health insurance for hospital, medical, dental,  
38 and similar services;

39               **(B)** retirement benefits under benefit pension plans  
40 as defined in the federal Employee Retirement  
41 Security Act (29 U.S.C. 1001 et seq.);

42               **(C)** holiday and vacation pay;

- 1 (D) sick leave; and
- 2 (E) similar advantages;
- 3 (5) certify that:
  - 4 (A) each affected employee has been continuously on
  - 5 the payroll of the employing unit for three (3)
  - 6 months immediately before the date on which the
  - 7 employing unit or employer association submits the
  - 8 work sharing plan; and
  - 9 (B) the total reduction in normal weekly work hours
  - 10 is in place of layoffs that would have:
    - 11 (i) affected at least the number of employees
    - 12 specified in section 5(1) of this chapter; and
    - 13 (ii) would have resulted in an equivalent reduction
    - 14 in work hours; and
- 15 (6) contain the written approval of:
  - 16 (A) the employee association agent for each
  - 17 agreement that covers any affected employee in the
  - 18 affected unit; or
  - 19 (B) if there is not an agent, a representative of the
  - 20 employees or employee association in the affected
  - 21 unit.
- 22 **Sec. 7. If a work sharing plan serves the work sharing**
- 23 **employer as a transitional step to permanent staff**
- 24 **reduction, the work sharing plan must contain a**
- 25 **reemployment assistance plan for each affected employee**
- 26 **that the work sharing employer develops with the**
- 27 **commissioner.**
- 28 **Sec. 8. The work sharing employer shall agree to:**
  - 29 (1) submit reports that are necessary to administer the
  - 30 work sharing plan; and
  - 31 (2) allow the department to have access to all records
  - 32 necessary to:
    - 33 (A) verify the work sharing plan before its approval;
    - 34 and
    - 35 (B) monitor and evaluate the application of the work
    - 36 sharing plan after its approval.
- 37 **Sec. 9. (a) An approved work sharing plan may be**
- 38 **modified if the modification meets the requirements for**
- 39 **approval under section 6 of this chapter and the**
- 40 **commissioner approves the modifications.**
- 41 (b) An employing unit may add an employee to a work
- 42 sharing plan when the employee has been continuously on



the payroll for at least three (3) months.

(c) An approved modification of a work sharing plan may not change the expiration date.

Sec. 10. (a) An affected employee is eligible under section 12 of this chapter to receive work sharing benefits for each week in which the commissioner determines that the affected employee is:

(1) able to work; and

(2) available for more hours of work or full-time work for the work sharing employer.

(b) An affected employee who otherwise is eligible may not be denied work sharing benefits for lack of effort to secure work as set forth in IC 22-4-14-3 or for failure to apply for available suitable work as set forth in IC 22-4-15-2 from a person other than the work sharing employer.

(c) An affected employee shall apply for benefits under IC 22-4-17-1.

(d) An affected employee who otherwise is eligible for benefits is:

(1) considered to be unemployed for the purpose of the work sharing unemployment insurance program; and

(2) not subject to the requirements of IC 22-4-14-2.

Sec. 11. The weekly work sharing unemployment compensation benefit due to an affected worker is determined in STEP FIVE of the following formula:

STEP ONE: Determine the weekly benefit that would be due to the affected employee under IC 22-4-12-4.

STEP TWO: Subtract the number of the employee's work hours under the approved work sharing plan from the number of the employee's normal work hours.

STEP THREE: Divide the STEP TWO result by the number of the employee's normal work hours.

STEP FOUR: Multiply the number determined in STEP ONE by the amount determined in STEP THREE.

STEP FIVE: If the product determined under STEP FOUR is not a multiple of one dollar (\$1), round down to the nearest lower multiple of one dollar (\$1).

Sec. 12. (a) An affected employee is eligible to receive not more than twenty-six (26) weeks of work sharing benefits during each benefit year.

(b) The total amount of benefits payable under IC 22-4-12-4 and work sharing benefits payable under this chapter may not exceed the total payable for the benefit year under IC 22-4-12-4(a).

Sec. 13. The board shall adopt rules under IC 4-22-2 applicable to partially unemployed workers for determining their weekly benefit amount due under this chapter, subject to IC 22-4-12-5(b).

Sec. 14. During a week in which an affected employee who otherwise is eligible for benefits does not work for the work sharing employer:

(1) the individual shall be paid benefits in accordance with this chapter; and

(2) the week does not count as a week for which a work sharing benefit is received.

Sec. 15. During a week in which an employee earns wages under an approved work sharing plan and other wages, the work sharing benefit shall be reduced by the same percentage that the combined wages are of wages for normal weekly work hours if the other wages:

(1) exceed the wages earned under the approved work sharing plan; and

(2) do not exceed ninety percent (90%) of the wages that the individual earns for normal weekly work hours.

This computation applies regardless of whether the employee earned the other wage from the work sharing employer or other employer.

Sec. 16. While an affected employee applies for or receives work sharing benefits, the affected employee is not eligible for:

(1) extended benefits under IC 22-4-12-4; or

(2) supplemental federal unemployment compensation.

Sec. 17. The commissioner may revoke approval of an approved work sharing plan for good cause, including:

(1) conduct or an occurrence that tends to defeat the intent and effective operation of the approved work sharing plan;

(2) failure to comply with an assurance in the approved work sharing plan;

(3) unreasonable revision of a productivity standard of the affected unit; and

1           **(4) violation of a criterion on which the commissioner**  
 2           **based the approval of the work sharing plan."**

3           Page 229, between lines 32 and 33, begin a new paragraph  
 4           and insert:

5           "SECTION 203. [EFFECTIVE JULY 1, 2002] (a)  
 6           **Notwithstanding IC 22-4-2-12, as amended by this act, the**  
 7           **department of workforce development shall carry out the**  
 8           **duties imposed upon it under IC 22-4-2-12 under interim**  
 9           **written guidelines approved by the commissioner of the**  
 10           **department of workforce development.**

11           (b) This SECTION expires on the earlier of the  
 12           following:

13           (1) The date rules are adopted under IC 22-4-2-12, as  
 14           amended by this act.

15           (2) December 31, 2003.

16           SECTION 204. [EFFECTIVE JULY 1, 2002] (a)  
 17           **Notwithstanding IC 22-4-43-13, as added by this act, the**  
 18           **unemployment insurance board shall carry out the duties**  
 19           **imposed upon it under IC 22-4-43-13, as added by this act,**  
 20           **under interim written guidelines approved by the**  
 21           **commissioner of workforce development.**

22           (b) This SECTION expires on the earlier of the  
 23           following:

24           (1) The date rules are adopted under IC 22-4-43-13, as  
 25           added by this act.

26           (2) December 31, 2003.

27           SECTION 205. [EFFECTIVE JULY 1, 2002] **There is**  
 28           **appropriated to the department of workforce development**  
 29           **fifty million dollars (\$50,000,000) from amounts credited to**  
 30           **the account of this state pursuant to 42 U.S.C. 1103, as**  
 31           **amended, by section 209 of the Temporary Extended**  
 32           **Unemployment Compensation Act of 2002, which is Title II**  
 33           **of the federal Job Creation and Worker Assistance Act of**  
 34           **2002, P.L.107-147, for the department's use in upgrading**  
 35           **the department's inhouse computer system used in**  
 36           **administering the state's unemployment compensation**  
 37           **system and public employment offices beginning July 1,**  
 38           **2002, and ending June 30, 2007."**

- 1 Renumber all SECTIONS consecutively.
- 2 (Reference is to EHB 1001(ss) as printed June 13, 2002.)

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Senator CRAYCRAFT